

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0281P

Use Tax

For Calendar Years 1998, 1999, and 2000

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1998, 1999, and 2000. Upon audit it was discovered that the taxpayer failed to remit use tax on approximately ninety-eight percent (98%) of its non-taxed taxable purchases.

Taxpayer requests abatement of the penalty due to mistakes or misunderstandings on its part.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it misinterpreted the state regulations, paid Ohio tax in many cases, and had a misunderstanding concerning tax exempt versus non-exempt purchases.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

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Taxpayer failed to remit use tax due on clearly taxable items and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

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